

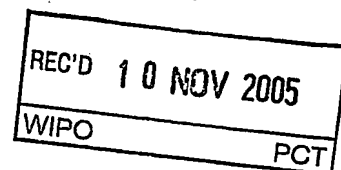
# PATENT COOPERATION TREATY

# PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)



Applicant's or agent's file reference 0000056032/AVH	<b>FOR FURTHER ACTION</b>  See Form PCT/IPEA416	
International application No. PCT/EP2004/013686	International filing date (day/month/year) 02.12.2004	Priority date (day/month/year) 04.12.2003
International Patent Classification (IPC) or national classification and IPC A01N37/52		
Applicant BASF AKTIENGESELLSCHAFT		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p style="margin-left: 20px;">a. <input type="checkbox"/> sent to the applicant and to the International Bureau a total of sheets, as follows:</p> <p style="margin-left: 40px;"><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607. of the Administrative Instructions).</p> <p style="margin-left: 40px;"><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p style="margin-left: 20px;">b. <input type="checkbox"/> (sent to the International Bureau only) a total of (Indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>		
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>		
Date of submission of the demand  26.09.2005	Date of completion of this report  11.11.2005	
Name and mailing address of the International preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer  Fort, M  Telephone No. +31 70 340-4123	



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**Box No. I Basis of the report**

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1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
  - ☐ publication of the international application (under Rule 12.4)
  - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements\*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

**Description, Pages**

1-14 as originally filed

**Claims, Numbers**

1-8 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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1. Statement

Novelty (N)	Yes: Claims	1-8
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-8
Industrial applicability (IA)	Yes: Claims	1-8
	No: Claims	

2. Citations and explanations (Rule 70.7):

**see separate sheet**

**Re Item V**

**Reasoned statement with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement**

Reference is made to the following documents:

D1: EP 0 604 798

D2: Database CA accession n° 1998: 294837 & ACS Symposium Series 686, Am. Chem.Soc., 1998, p.185-193

D3: Database CA accession n° 1998: 294826 & ACS Symposium Series 686, Am. Chem.Soc., 1998, p.178-184

-Each of the documents D1-D3 discloses the insecticidal and acaricidal activity of compounds of formula (I) and their use for plant protection without mentioning the possibility of using said compounds for protecting seeds. The subject-matter of claims 1-8 is therefore new (Article 33(2) PCT).

-The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1-8 does not involve an inventive step in the sense of Article 33(3) PCT.

The document D1 which is regarded as being the closest prior art discloses the use of N-arylhydrazine derivatives of formula (I) for the protection of crops from the damage and loss caused by insect and acaricid pests. The active compounds are applied to the foliage of the crops, or to the soil or water in which they are growing (see D1, p.7, I.32-34). The subject-matter of claims 1-8 differs from the teaching of D1 in that the compounds of formula (I) are applied to seeds.

Given the teaching of D1, the skilled person would have attempted with reasonable expectation of success, to use the compounds of formula (I) as seed protection pesticides all the more since D1 teaches the application of compounds of formula (I) to the soil in which the crops are growing. The subject-matter of claims 1-8 cannot therefore be considered as being inventive.

-The subject-matter of claims 1-8 is considered to be industrially applicable and the

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(SEPARATE SHEET)**

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present application is therefore considered to satisfy the criterion set forth in Article 33 (4) PCT.